



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/208,097	11/16/1998	JOHN S. HENDRICKS	5213	7677

7590 07/18/2003

ALDO NOTO
DORSEY & WHITNEY
1001 PENNSYLVANIA AVENUE NW
SUITE 300
WASHINGTON, DC 20004

EXAMINER

KOENIG, ANDREW Y

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 07/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/208,097

Applicant(s)

HENDRICKS ET AL.

Examiner

Andrew Y Koenig

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-20,23-30,34,35,38-90,93-97,101-112,116-122,124,125 and 127-129.

Claim(s) objected to: _____

Claim(s) rejected: 31,37,91,92,98,113 and 126.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____



ANDREW FAILE

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 5. does NOT place the application in condition for allowance because: The applicant's arguments directed to the claims 31, 37, 91, 92, 98, 113, and 126 fail to establish a date prior to that of the instant application. Since claims 31, 37, 91, 92, 98, 113, and 126 are originally filed claims and they lack support in the parent applications, they have a filing date of the instant application of 16 November 1998.

Regarding claims 31, 98, 113, and 126, there is no support in the parent applications for a "specialty program subscription is a sporting event subscription." The applicant has relied on a parent application U.S. Patent 5,659,350 to illustrate a sporting event in a specialty program. However, the examiner disagrees. It is understood that the system can receive information about a sporting event, there is no support given to show that this sporting event is in fact a program subscription. The cited portion is merely information regarding a sporting program.

Regarding claim 37, there is no support in the parent applications for the claimed "managing the yield of the programs watched information for the targeted program so that the targeted program yields higher programs watched information." Whereas, the examiner understands that the "MII 402 also uses algorithms 424 to analyze the program watched information" there is no further details supporting "so that the targeted program yields higher programs watched information."

Regarding claims 91 and 92, the applicant argues "that one skilled in the art would understand at the time of the invention that modem 627 could be a wireless modem or cable modem." (see pg. 22, lines 22-23 of the applicant's remarks). Clearly, the applicant is admitting that the parent applications fail to have any support or possession of this limitation. Accordingly, the rejection is maintained.

The proposed amendments to claims 30, 97, 112, and 122 changing "first run" to a "hit" movie has basis in the parent applications and is entitled to the filing date of 02 December 1993.

The proposed amendment to claim 19 addresses the previous problems of antecedence and has basis in the parent application and is entitled to the filing date of 02 December 1993.